

Zoning Text Amendment No: 08-05
Concerning: Transit-Oriented Mixed-Use Zones
Draft No. & Date: 2 – 4/1/08
Introduced: 4/8/08
Public Hearing:
Adopted:
Effective:
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: District Council at the Request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- establish the Transit Oriented Mixed-Use 1.0 and Transit Oriented Mixed-Use 1.0/Transferable Development Rights Zones;
- establish the allowable land uses, development standards, and approval procedures for development in the Transit Oriented Mixed-Use 1.0 and Transit Oriented Mixed-Use 1.0/Transferable Development Right Zones, and
- amend the land uses, development standards, and approval procedures for development in the Transit Oriented Mixed-Use 2.0 and the Transit Oriented Mixed-Use 2.0/Transferable Development Rights Zones.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-C-13	“TRANSIT ORIENTED, MIXED-USE ZONES (TOMX)
Section 59-C-13.1	“Zones established”
Section 59-C-13.2	“Provisions of the Transit Oriented, Mixed-Use Zones”
DIVISION 59-D-2	“PROJECT PLAN FOR OPTIONAL METHOD OF DEVELOPMENT, CBD ZONES, AND RMX ZONES.
Section 59-D-2.0	“Zones enumerated”

*EXPLANATION: **Boldface** indicates a heading or a defined term.
Underlining indicates text that is added to existing laws by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
* * * indicates existing law unaffected by the text amendment.*

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

1 **Sec. 1. Division 59-C-13 is amended as follows:**

2
3 **DIVISION 59-C-13 TRANSIT ORIENTED, MIXED-USE ZONE[S] (TOMX)**
4

5 **Sec. 59-C-13.1. Zones established.**
6

7 **59-C-13.11 Zones permitted.**
8

9 These zones are permitted in transit station development areas as defined in Section 59-A-2.1.
10

11 TOMX-1.0

12 TOMX-1.0/TDR

13 TOMX-2.0

14 TOMX-2.0/TDR
15

16 **Sec. 59-C-13.2. Provisions of the Transit Oriented, Mixed-Use Zones.**
17

18 **59-C-13.21. Description, purpose, intent and general requirements**
19

20 **59-C-13.211. Description.**
21

22 Each Transit Oriented Mixed-Use Zone is intended to be shown on a master or sector
23 plan. The TOMX Zones are a continuum of Euclidean zones with a range of increasing
24 densities permitted. The zones provide incentives to redevelop transit areas into distinct
25 and compact mixed-use centers for housing, retail, service, and employment
26 opportunities and include public use space and appropriate public facilities and amenities.
27

28 The TOMX-1.0 Zone is intended for moderate density development in Transit Station
29 Development Areas, as defined in Section 59-A-2.1.
30

31 The TOMX-2.0 Zone is intended for medium density development [adjacent to transit
32 station development areas] in Transit Station Development Areas, as defined in Section
33 59-A-2.1.
34

59-C-13.212. Intent.

The intent of the TOMX Zones is to provide mixed_use, transit, and pedestrian oriented centers that include housing, commercial, biotechnology, and research and development uses. These zones are intended to foster development by permitting an increase in density and height [when such an] if the increase [conforms to] is consistent with a master plan or sector plan

[recommendations] recommendation. Land [shall be classified] is eligible for classification in any transit oriented, mixed-use zone only if it is recommended for the zone in an approved and adopted master plan or sector plan. The TOMX zones are intended to accomplish the following:

- (a) To create mixed-use transit oriented development with an interconnected street system defined by buildings, open spaces, public facilities and amenities that are arranged to create a setting for community life.
- (b) To provide incentives and flexible development standards for mixed-use, transit and pedestrian oriented development that create a compatible network of interconnecting streets, open squares, plazas, defined streetscapes, and civic and community oriented uses as recommended in applicable master and sector plans.
- (c) To encourage land assembly in a compact and efficient form that achieves a compatible mix of uses [in accordance with] recommended by the approved and adopted master plan and sector plan.
- (d) To provide housing, including affordable housing, near transit station development areas.
- (e) To encourage Leadership in Energy and Environmental Design (LEED) standards for sustainable and efficient design.
- (f) To improve access within the mixed-use transit station development areas as well as from the surrounding communities.

59-C-13.213. Reserved.

59-C-13.214. Location.

Land classified in [the] a TOMX [2.0] Zone must be located in [transit station development areas] a Transit Station Development Area as defined in Section 59-A-2.1.

59-C-13.215. Methods of development and approval procedures. Two methods of development are available [in this zoning category].

- (a) **Standard Method of Development:** The standard method requires compliance with a specific set of development standards and permits a range of uses and a density compatible with these standards. If residential uses are included in a development, moderately priced dwelling units must be provided [in accordance with] under Chapter 25A. The maximum dwelling unit density or residential FAR may be increased in proportion to any MPDU density bonus provided on-site. Site plans must be approved in accordance with section 59-D-3.
- (b) **Optional Method of Development:** The Optional Method of Development promotes additional densities, and supports innovative design and building technologies to create a pedestrian-oriented and mixed-use development pattern. Approval of the Optional Method of Development is dependent on providing required public amenities and facilities. The public facilities and amenities are intended to support the additional densities permitted under the Optional Method of Development. The procedure for the approval of the Optional Method of Development is [set forth] established in Section 59-D-2. Site plans must be approved [in accordance with] under Section 59-D-3. If residential uses are included in a development, Moderately Priced Dwelling Units must be provided [as required by] under Chapter 25A and workforce housing units must be provided [as required by] under Section 59-A-6.18 and Chapter 25B. The maximum dwelling unit density or residential FAR may be increased in proportion to any MPDU density bonus provided on-site.

59-C-13.22. Land uses.

No use is allowed except as indicated in the following table:

* * *

	TOMX 1.0 and 2.0	
(a) Residential:	Standard	Optional
Dwellings.	P	P
Group home, small.	P	P
Group home, large.	P	P
Hotel or motel.	P	P
Housing and related facilities for senior adults or persons with disabilities.	P	P
Life care facility.	P	P
Personal living quarters.	P	P

	Standard	Optional
(b) Transportation, communication and utilities:		
<u>Parking garages, automobile.</u>		<u>P</u>
Public utility buildings, structures, and underground facilities.	P	P
Radio and television broadcasting studio.	P	P
Rooftop mounted antennas and related unmanned equipment building, equipment cabinet or equipment room.	P	P
Taxicab stand, not including storage while not in use.	P	P
(c) Commercial [office and retail]:		
Antique shops, handicrafts or art sales and supplies.	P	P
<u>Automobile sales, retail showroom.</u>	<u>P</u>	<u>P</u>
Book store.	P	P
<u>Convenience food and beverage store, without fuel sales.</u>	<u>P</u>	<u>P</u>
[Eating and drinking establishment, excluding drive-in.	P	P]
<u>Department stores.</u>		<u>P</u>
Drug store.	P	P
<u>Eating and drinking establishment, excluding drive-in.</u>	<u>P</u>	<u>P</u>
Florist shop.	P	P
[Food and beverage store.	P	P]
Furniture store, carpet, or related furnishing sales or service.	P	P
Gift shop.	P	P
Grocery store.	P	P
Hardware store.	P	P
Office supply store.	P	P
Office, general.	P	P
Office, professional including banks and financial institutions (excluding check cashing stores).	P	P
Offices for companies principally engaged in health services, research and development.	P	P
Newsstand.	P	P
Photographic and art supply store.	P	P
Pet sales and supply store.	P	P
Specialty shop.	P	P
(d) Services:		
Adult foster care homes.	P	P
Ambulance or rescue squad, public supported.	P	P
Animal boarding place.	SE	SE
Art, music and photographic studios.	P	P
Automobile filling station.	SE	SE
Automobile rental services, excluding automobile storage and supplies.	P	P
Barber and beauty shop.	P	P
Charitable and philanthropic institutions.	P	P
Clinic.	P	P
Child daycare facility		
- Family day care.	P	P
- Group day care.	P	P
- Child day care center.	P	P

	Standard	Optional
Daycare facility for not more than 4 senior adults and persons with disabilities.	P	P
Domiciliary care for no more than 16 senior adults.	P	P
Dry cleaning and laundry pick-up station.	P	P
Duplicating services.	P	P
Educational, private institution.	P	P
Home occupation, no impact.	P	P
Home occupation, registered.	P	P
Home occupation, major.	SE	SE
Hospice care facility.	P	P
Hospitals, veterinary.	SE	SE
International public organization.	P	P
Place of religious worship.	P	P
Publicly owned or publicly operated uses.	P	P
Self storage.		P ¹
Shoe repair shop.		P
Tailoring or dressmaking shop.	P	P
Universities and colleges teaching and research facilities.	P	P
(e) Research and Development and Biotechnology	P	P
Laboratories.	P	P
Advanced Technology and Biotechnology.	P	P
Manufacturing, compounding, processing or packaging of cosmetics, drugs, perfumes, pharmaceuticals, toiletries, and products resulting from biotechnical and biogenetic research and development.	P	P
Manufacturing and assembly of medical, scientific or technical instruments, devices and equipment.	P	P
Research, development, and related activities.	P	P
(f) Cultural, entertainment and recreational:		
Auditoriums or convention halls.	P	P
Billiard parlor.	P	P
Bowling alley.	P	P
Health clubs and gyms.	P	P
Libraries and museums.	P	P
Park and playgrounds.	P	P
Private clubs and service organizations.	SE	P
Recreational or entertainment establishments, commercial.	P	P
<u>Theater, legitimate.</u>	<u>P</u>	<u>P</u>
Theater, indoor.	P	P

1 Only if recommended in the applicable master plan or sector plan and limited to a maximum FAR of .75.

59-C-13.23. Development standards.

The development standards applicable to the Standard Method and Optional Method of Development are [set forth] established in this section. In addition to the requirements specified in this table, all Optional

Method of Development projects must be consistent with the guidelines established in the applicable master plan or sector plan.

	<u>TOMX-1.0</u>		TOMX- 2.0	
	<u>Standard</u>	<u>Optional</u>	Standard	Optional
59-C-13.231. The minimum net lot area required for any development (in square feet): Provided, however, that a smaller lot may be approved [for the TOMX zones] where such lot is designated for [one of these zones] a <u>TOMX zone</u> on an approved and adopted master plan or sector plan, <u>where</u> the lot is located adjacent to or confronting another lot either classified in or under application for either zone, and the combined lots are subject to a single project plan subject to approved or approved by the Planning Board. The required minimum area does not prohibit a lot of less than 18,000 square feet for purposes of subdivision or record plat approval.		<u>18,000</u>	-	18,000
59-C-13.232. Maximum Building Coverage (percent of net lot area):	<u>75</u>		75	
59-C-13.233. Minimum Public Use Space (percent of net lot area):	<u>10</u>	<u>20</u>	10 ¹	20 ²
59-C-13.234. Maximum Density of Development³ (floor area ratio):	<u>0.5</u>	<u>1.0*</u>	[FAR] 0.5	[FAR] 2.0*
59-C-13.235. Maximum Building Heights (in feet):	<u>28</u>		50 [feet]	
- If adjoining or directly across the street from land recommended for or developed in a residential zone with a maximum of 15 dwelling units per acre or less (in feet)	<u>28</u>		35 [feet]	
59-C-13.236. Minimum Setbacks (in feet):				
- From an adjacent TOMX Zone ⁴	<u>15</u>		15 [feet]	
- From an adjacent commercial or industrial zone	<u>20</u>		20 [feet]	
- From an adjacent single family residential zone	<u>25</u>		25 [feet]	
- From a public right-of-way	<u>10</u>		10 [feet]	

* * *

* Unless a lower standard is recommended in the applicable master or sector plan.

59-C-13.237. Special standards and guidelines for Standard Method and Optional Method of Development projects.

* * *

(c) Site Plan Streetscape Guidelines:

- Provide street lighting designed to avoid an adverse impact on surrounding uses, while also providing a sufficient level of illumination for access and security.
- Provide a canopy of closely spaced street trees along each street.
- Provide street furniture such as benches, trash receptacles and planters.
- Enhance crosswalk areas with accessible curb ramps unless prohibited by the Department of [Public Works and] Transportation.

59-C-13.2371. Off-street parking. Required off-street parking must be provided [pursuant to] under Article 59-E and off-street parking spaces for mixed-use projects must be provided [pursuant to] under [Sec.] Section 59-E-3.1.

* * *

59-C-13.24 Transferable development rights zones.

59-C-13.241. Method of development. The following [2] methods of development are possible in any TOMX/TDR zone:

- (a) **Standard method of development.** Development under the standard method for any TOMX/TDR zone must comply with the requirements and procedures for development and density limitations contained in the corresponding TOMX zone, except that greater residential densities may be permitted [pursuant to] under Section 59-C-13.242. Development must also conform to the special regulations for developments in a TOMX zone using transferable development rights [contained] in Section 59-C-13.243.
- (b) **Optional method of development.** Development under the optional method for any TOMX/TDR zone must comply with the requirements and procedures for development and density limitations contained in the corresponding TOMX zone and must conform to any [the] numeric limits set in the applicable master or sector plan concerning floor area ratio, dwelling units per acre, building heights and setbacks. [In all other respects the development] Development must be consistent with the master or sector plan[.]; however, greater [residential] densities may be permitted [pursuant to] under Section 59-C-13.242. Development must also conform to the special regulations for developments using transferable development rights contained in Section 59-C-13.243. [The] These special regulations require conformance to any [the] numeric limits that may be set in the applicable master or sector plan concerning floor area ratio, dwelling units per acre, building heights and setbacks. In all other respects the development must be consistent with the applicable master or sector plan.

	<u>TOMX 1.0/TDR</u>	TOMX 2.0/TDR
59-C-13.242. Development Standards-Transferable Development Rights Zone(s):		
(a) Land uses. Uses allowed in the TOMX/TDR zones are those uses allowed in the following zone(s):	<u>TOMX 1.0</u>	TOMX-2.0
(b) <u>Standard Method</u> Development Standards [-Standard method must conform with each of the following]:		
[-]1. Maximum density of development (FAR) without TDRs	<u>0.3</u>	0.5
[-]2. [The Residential FAR may be increased by a maximum of 20% by the use of TDRs.] <u>Maximum density of development (FAR) with TDRs.*</u>	<u>0.36</u>	<u>0.6</u>
[- Maximum dwelling units per acre without TDRs		20]
[Dwelling units per acre may be increased by a maximum of 20% by the use of TDRs.]		
[-]3. All other development standards must be in accord with the development standards applicable to the following zones and as specified in the special regulation provisions of Section 59-C-13.243:	<u>TOMX 1.0</u>	TOMX 2.0
(c) <u>Optional Method</u> Development standards [- Optional method of development must conform to each of the following]:		
[-]1. Maximum density of development (FAR) without TDRs (a lower standard, reflecting no less than the Standard Method requirement, may be established in applicable master or sector plan)	<u>.5</u>	[1.6] <u>1.5**</u>
2. Maximum density of development (FAR) with TDRs (a lower standard may be established in an applicable master or sector plan) ¹	<u>1.0</u>	<u>2.0</u>
[The Residential FAR may be increased by a maximum of 20% by the use of TDRs]		
[- Maximum dwelling units per acre without TDRs]		[40]
[Dwelling Units per acre may be increased by a maximum of 20% by the use of TDRs]		
[-] 3. All other development standards must comply with the development standards of the applicable zone and as specified in the special regulation provisions of Section 59-C-13.243.	<u>TOMX 1.0</u>	TOMX 2.0

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144 * The applicable master or sector plan may also set a maximum density in dwelling units per acre
145 which may be increased by a maximum of 20% through the use of TDRs.

146 ** The applicable master or sector plan may set a higher maximum density without the use of TDRs.

59-C-13.243. Special regulations for development using transferable development rights in the TOMX/TDR zone.

59-C-13.2431. Applicability. The following procedures and regulations apply to the transfer of development rights to land classified in a TOMX/TDR zone. The Planning Board may approve subdivision of such land at densities not to exceed the maximum density permitted in the applicable TOMX/TDR zone. The development must conform to any [the] numeric limits in the applicable master or sector plan concerning floor area ratio, dwelling units per acre, building heights and setbacks. In all other respects the development must be consistent with the applicable master or sector plan.

Where the applicable master or sector plan recommends calculating TDR based on square footage, one TDR will be required for 1,800 square feet of residential space, or 1,500 square feet of non-residential space. Where the applicable master or sector plan recommends only residential use of TDRs, one TDR will be required for each dwelling unit, regardless of square footage. [Any increase in the residential FAR above the residential FAR and dwelling units per acre allowed under the standard and optional methods of development of 59-C-13.215 and 59-C-13.23 must not exceed 20% of the maximum dwelling units per acre or FAR permitted without TDRs and must be based on a ratio of one single-family dwelling unit for each TDR, and 2 multi-family dwelling units for each TDR; however, within a designated Metro Station Policy Area, a ratio of three multi-family dwelling units for each TDR and two one-family units for each TDR applies.]

59-C-13.2432. General provisions.

- (a) A development right must be created, transferred and extinguished only by means of documents in a recordable form approved by the Planning Board, including an easement and appropriate releases. The TDR easement must limit [the] future construction [of one-family dwellings] on a property in the RDT zone to the total number of development rights established by the zoning of the property minus all development rights previously transferred [in accordance with this section], the number of development rights to be transferred by the instant transaction, and the number of existing one-family detached dwellings on the property.

* * *

59-C-13.2433. Development approval procedures under the standard and optional method of development.

- 181
- 182 (a) A request to use development rights on a property under the standard and optional
- 183 method must be in the form of a preliminary subdivision plan submitted [in accordance]
- 184 under Chapter 50.
- 185 (b) A site plan must be submitted and approved [in accordance with] under the provisions of
- 186 Division 59-D-3.
- 187 (c) The Planning Board must approve a request to use transferred development rights if the
- 188 request:
- 189 (1) [is in accordance with] satisfies the provisions of this chapter;
- 190 (2) [is in accordance with] satisfies Chapter 50, title "Subdivision of Land";
- 191 (3) conforms to [the] any numeric limits in the applicable master or sector plan
- 192 concerning floor area ratio, dwelling units per acre, building heights, and
- 193 setbacks; and is in all other respects [the development is] consistent with the
- 194 applicable master or sector plan; and
- 195 (4) achieves a desirable development compatible with [both] site conditions, [and]
- 196 surrounding existing development, and [with] anticipated future development.
- 197
- 198 (d) [Prior to] Before Planning Board [approval of] approves a final record plat for a
- 199 subdivision using transferred development rights, an easement to the County in the form
- 200 required by Section 59-C-2432(a) above limiting future construction of dwellings on a
- 201 property in the RDT zone by the number of development rights received must be recorded
- 202 among the land records of Montgomery County, Maryland.
- 203
- 204 (e) A final record plat for a subdivision using transferred development rights must contain a
- 205 statement setting forth the development proposed, the zoning classification of the property,
- 206 the number of development rights used, and a notation of the recordation of this
- 207 conveyance required by Section 59-C-2432(b).
- 208

209 **59-C-13.2434. Development standards applicable to the standard and optional method of**

210 **development.**

211

- 212 (a) The final density achieved for any property located in a TDR receiving area developed
- 213 under the procedures herein must be determined by the Planning Board and must

conform to the site plan provisions (Division 59-D-3) and subdivision regulations (Chapter 50).

(b) In making the determination as to the final density, the Planning Board will consider the following factors:

- (1) conforms to [the] any numeric limits in the applicable master or sector plan concerning floor area ratio, dwelling units per acre, building heights, and setbacks; and is in all other respects [the development is] consistent with the approved master or sector plan;
- (2) preserves environmentally sensitive and priority forest areas, and mitigates unavoidable impacts on the natural environment;
- (3) facilitates good transit serviceability and creates a desirable and safe pedestrian environment; and
- (4) achieves compatibility with surrounding land uses.

* * *

Sec. 2. Article 59-D is amended as follows:

ARTICLE 59-D. ZONING DISTRICTS—APPROVAL PROCEDURES.

INTRODUCTION

* * *

The following table is provided for the convenience of the public, citing the appropriate sections of article 59-C and indicating the types of plans required in each zone. In event of conflict between this table and the provisions of article 59-C, the latter must govern.

Plan Approvals Required

Zone	Section Number	Development Plan (Division 59-D-1)	Project Plan Optional Method (Division 59-D-2)	Site Plan (Division 59-D-3)	Diagrammatic Plan (Division 59-D-4)
* * *					
<i>Standard Method</i>					
* * *					
<u>TOMX 1.0</u>				<u>X</u>	
<u>TOMX 1.0\TDR</u>				<u>X</u>	
TOMX 2.0				X	

<u>TOMX 2.0\TDR</u>				<u>X</u>	
<i>Optional Method</i>					
* * *					
<u>TOMX 1.0</u>			<u>X</u>	<u>X</u>	
<u>TOMX 1.0\TDR</u>			<u>X</u>	<u>X</u>	
TOMX 2.0			X	X	
<u>TOMX 2.0\TDR</u>			<u>X</u>	<u>X</u>	

* * *

Sec. 3. Division 59-D-2 is amended as follows:

DIVISION 59-D-2. PROJECT PLAN FOR OPTIONAL METHOD OF DEVELOPMENT, CBD ZONES [AND], RMX ZONES, AND TOMX ZONES.*

Sec. 59-D-2.0. Zones enumerated.

The Planning Board is authorized to approve development under the optional method of development procedures described in Section 59-C-6.2 of the CBD zones, Section 59-C-10 of the RMX Zones, Section 59-C-13 of the TOMX Zones and the approval procedure set forth in this Division, for the following zones:

* * *

TOMX-1 - Transit Oriented Mixed-Use, 1.0

TOMX-2 - Transit Oriented Mixed-Use, 2.0

TOMX-1/TDR - Transit Oriented Mixed-Use, Transferable Development Rights, 1.0

TOMX-2/TDR - Transit Oriented Mixed-Use, Transferable Development Rights, 2.0

* * *

Sec. 4. Effective date. This ordinance becomes effective 20 days after the date of Council adoption.

This is a correct copy of Council action.

Linda M. Lauer

Clerk of the Council